98th Congress
2d Session

COMMITTEE PRINT

WMCP: 98-39

# COMMITTEE ON WAYS AND MEANS
# U.S. HOUSE OF REPRESENTATIVES

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## SUMMARY OF PROVISIONS OF

## H.R. 3398

## TRADE AND TARIFF ACT OF 1984

As Passed by the House and the Senate

OCTOBER 10, 1984

Prepared for the use of the Committee on Ways and Means by its staff

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U.S. GOVERNMENT PRINTING OFFICE

39-150 O

WASHINGTON : 1984

H782-43

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# PREFACE

This document has been prepared by the staff of the Committee on Ways and Means to provide a summary of provisions of H.R. 3398, the Trade and Tariff Act of 1984, as agreed to by the conferees on October 5, 1984, and as passed by the House and the Senate on October 9, 1984.

As a summary document, this pamphlet should not be relied upon as an official record of the conference or as official legislative history. The actual conference report to accompany the bill (H. Rept. 98–1156) constitutes the official reflection of the conference agreement.

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## I. TARIFF SCHEDULES AMENDMENT

### *1. Coated textile fabrics*

Under present law, certain fabrics, articles and materials coated, filled, or laminated with rubber or plastics are classified under provisions in schedule 7 of the Tariff Schedules of the United States (TSUS). The conference agreement provides for the reclassification of textile fabrics and articles, coated, filled or laminated with rubber or plastics to part 4C of schedule 3, resulting in increased duties and imposition of import restraints under the MFA.

### *2. Warp knitting machines*

Under present law, warp knitting machines are classified under TSUS item 670.20 with an MFN (column 1) tariff rate of 5.6 percent ad valorem. The conference agreement provides permanent column 1 duty-free treatment for warp knitting machines and parts thereof entered after June 30, 1983.

### *3. Certain gloves*

Under present law, certain gloves used as work gloves are classified under a category not intended to be used for the classical work glove. The conference agreement clarifies the classification of gloves and provides for the reclassification of certain rubber or plastic work gloves, resulting in an increase in duties.

### *4. Pet toys*

Under present law, toys for pets, of textile materials are provided for, together with numerous other products, under a number of different tariff items. The conference agreement provides for a uniform column 1 duty of 8.5 percent ad valorem on imported toys for pets, of textile materials, the same rate of duty currently assessed on toys for pets, of rubber or plastics.

### *5. Water chestnuts and bamboo shoots*

Under present law, water chestnuts and bamboo shoots are subject to column 1 rates of duty of 7 percent ad valorem and 8.1 percent ad valorem, respectively. The conference agreement provides for permanent column 1 duty-free treatment for water chestnuts and bamboo shoots.

### *6. Gut for use in manufacture of sterile surgical sutures*

Under present law, unsterilized gut enters the United States under TSUS item 792.22 at a column 1 (MFN) duty of 11.2 percent ad valorem. The conference agreement creates a new TSUS item that reduces the column 1 rate of duty for gut imported for use in the manufacture of surgical sutures to 5.4 percent ad valorem.



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That rate is subsequently reduced in annual stages to 3.5 percent ad valorem, on January 1, 1987.

*7. Orange juice products*

Under present law, concentrated orange juice is subject to a column 1 rate of duty of 35 cents per gallon and unconcentrated juice is subject to a column 1 duty of 20 cents per gallon. The conference agreement provides for reclassification of orange juice to delineate between naturally concentrated and reconstituted orange juice resulting in increased column 1 duties for reconstituted orange juice, effective on January 1, 1985.

*8. Reimportation of certain articles originally imported duty free under present law*

Under present law, previously imported articles may be reimported duty free if duty was previously paid and the article was not advanced in condition while abroad after being exported under lease to a foreign manufacturer. The conference agreement would allow duty-free treatment of articles reimported after being exported under a lease on similar use agreement to any party even if no duty was paid on previous importation because of GSP or CBI preferences.

*9. Geophysical equipment*

Under present law, geophyiscal equipment is subject to duty under various provisions of the TSUS each time it is imported into the United States. The conference agreement creates a new item 802.50 in TSUS to provide permanent duty-free treatment for articles exported for purposes of rendering certain geophysical or contracting services abroad and returned.

*10. Scrolls or tablets used in religious observances*

Under present law, scrolls or tablets of wood or paper, commonly known as Gohonzon, are dutiable under item 207.00 of the TSUS with a column 1 rate of duty of 6.2 percent ad valorem. The conference agreement provides permanent duty-free treatment for certain Buddhist tablets or scrolls called Gohonzon used in religious observances.

*11. Steel pipes and tubes used in lampposts*

Under a recent court decision, tapered pipes and tubes for lampposts are classified under TSUS item 653.39 as parts of illuminating articles. The conference agreement would confirm this practice by creating a new breakout for such articles at the same rates of duty.

*12. Wearing apparel*

The conference agreement provides for reclassification of most wearing apparel imported as parts of sets from classification as entireties under present law to classification as separate components, resulting in higher duties on garments imported as parts of sets.

*13. Recently developed dairy products*

Under present law, whey protein concentrate, lactalbumin, and milk protein concentrate are classified under various "basket" provisions in the TSUS. The conference agreement creates new tariff provisions for each of these recently developed dairy products. The applicable tariff rates remain unchanged and no quantitative restrictions would be imposed.

*14. Telecommunications product classification*

Under present law, telecommunications product classification do not reflect current technology changes. The conference agreement revises the provisions of the Tariff Schedules applicable to telecommunications products, without changes in rates of duty, in order to better reflect the state of currrent technology in such products in the TSUS.

*15. Fresh asparagus*

Under present law, asparagus which is chilled, fresh or frozen is dutiable at a column 1 duty rate of 25 percent ad valorem. The conference agreement provides for a 20 percent ad valorem reduction in the column 1 rate of duty on certain fresh or chilled asparagus air freighted to the United States and entered between September 15 and November 15 in any year.

*16. Chipper knife steel*

Under present law, the column 1 duty rate on certain chipper knife steel of 8.3 percent ad valorem plus additional duties on certain alloys has been temporarily reduced to 4 percent ad valorem. The conference agreement provides permanent column 1 duty-free treatment for imports of chipper knife steel which is not cold formed, to be implemented in two stages. Effective April 1, 1985, the column 1 rate will be reduced to 2 percent ad valorem. Effective April 1, 1986, the rate will go to free.

*17. Implementation of Customs Convention on Containers, 1972*

Under present law container parts, equipment and accessories are dutiable. The conference agreement provides for the duty-free entry of repair parts, accessories and equipment of temporarily admitted containers, thereby bringing the U.S. customs treatment into conformity with the Customs Convention on Containers, 1972, effective upon proclamation by the President.

*18. Fresh, chilled, or frozen brussels sprouts*

Under present law, fresh, chilled, or frozen brussels sprouts are dutiable at column 1 rates of 25 percent ad valorem or 17.5 percent ad valorem depending upon whether they been cut, sliced, or otherwise reduced in size.

The conference agreement provides for a temporary reduction of the column 1 rates of duty to 12.5 percent ad valorem and 7 percent ad valorem, respectively, on certain fresh, chilled or frozen brussels sprouts, until December 31, 1987.

*19. Beta-naphthol*

The conference agreement provides for a temporary suspension of the column 1 duty rate of 22.4 percent ad valorem on beta-naphthol, until December 31, 1987.

*20. 4-chloro-3-methylphenol*

The conference agreement extends the current duty suspension on 4-chloro-3-methylphenol entered after June 30, 1984, until December 31, 1987.

*21. Tetraamino biphenyl*

Under present law, tetraamino biphenyl is dutiable at a column 1 rate of 13.5 percent ad valorem; no preferential rate is afforded to imports from least developed developing countries.

The conference agreement provides for temporary suspension of the column 1 duty on 3,3′-diaminobenzidine commonly known as tetraamino biphenyl until December 31, 1988.

*22. 6-Amino-1-naphthol-3-sulfonic acid*

Under present law, 6-amino-1-naphthol-3-sulfonic acid, otherwise known as J-Acid, has an MFN, column 1 duty rate of 9.2 percent ad valorem. The conference agreement provides for temporary suspension of the column 1 duty until December 31, 1987.

*23. DSA*

Under present law, 2-(4-aminophenyl)-6-methylbenzothiazole-7-sulfonic acid, commonly called DSA, has a MFN, column 1 duty rate of 17 cents per pound plus 16.2 percent ad valorem.

The conference agreement provides for temporary suspension of the column 1 duty until December 31, 1987.

*24. Guanidines*

Under present law, diphenyl guanidine and di-o-tolyl guanidine are classified under TSUS item 405.52. The current column 1 rate of duty is 17.3 percent ad valorem.

The conference agreement provides for temporary suspension of the column 1 duty on diphenyl guanidine and di-o-tolyl guanidine until December 31, 1987.

*25. Certain antibiotics*

Under present law, (6R, 7R)-7-[(R)-2-Amino-2-phenylacetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid disolvate has a column 1 duty rate of 13.5 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty until December 31, 1987.

*26. Acetylsulfaguanidine*

Under present law, acetylsulfaguanidine is dutiable at a column 1 rate of 1.7 cents per pound plus 18 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty until December 31, 1987.

*27. Fenridazon-potassium*

Under present law, mixtures of fenridazon-potassium and its formulation adjuvants are classified as pesticides in TSUS item 408.38. Item 408.38 has a column 1 duty rate of 0.8 cent per pound plus 9.7 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty on such mixtures until December 31, 1987.

*28. Uncompounded allyl resins*

The conference agreement extends the existing suspension of the 7.4 percent ad valorem column 1 rate until December 31, 1987.

*29. Sulfamethazine*

The conference agreement provides for the temporary suspension of the 11.9 percent ad valorem column 1 duty on sulfamethazine until December 31, 1987.

*30. Sulfaguanidine*

The conference agreement provides for the temporary suspension of the 18.1 percent ad valorem column 1 duty on sulfaguanidine until December 31, 1987.

*31. Terfenadine*

The conference agreement provides for the temporary suspension of the 9.2 percent ad valorem column 1 duty on terfenadine until December 31, 1987.

*32. Sulfathiazole*

The conference agreement provides for the temporary suspension of the 23.6 percent ad valorem column 1 duty on sulfathiazole until December 31, 1987 and repeals subsections 136 (b) and (c) of P.L. 97-446.

*33. Sulfaquinoxaline and sulfanilamide*

Under present law, sulfaquinoxaline and sulfanilamide are classifiable in TSUS item 411.82, along with several other enumerated products. The current column 1, MFN, rate of duty is 16.9 percent. The conference agreement provides for the temporary suspension of the column 1 duty for both products until December 31, 1987.

*34. Dicyclomine hydrochloride and mepenzolate bromide*

Under present law, both dicyclomine hydrochloride and mepenzolate bromide are classifiable under TSUS item 412.02 as autonomic drugs provided for in the Chemical Appendix to the TSUS. The current column 1 rate of duty is 12.6 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty for both products until December 31, 1987.

*35. Amiodarone*

The conference agreement provides for the temporary suspension of the 8 percent ad valorem column 1 duty on amiodarone until December 31, 1987.

***36. Desipramine hydrochloride***

The conference agreement provides for the temporary suspension of the 27.7 percent ad valorem column 1 duty on desipramine hydrochloride until December 31, 1987.

***37. Clomiphene citrate***

The conference agreement provides for the temporary suspension of the 8.7 percent ad valorem column 1 duty on clomiphene citrate until December 31, 1987.

***38. Yttrium bearing materials and compounds***

Under present law, yttrium concentrates imported under item 603.70 of the TSUS have a column 1 MFN duty rate of 5.9 percent High-purity yttrium oxide and other inorganic compounds imported under item 423.00 of the TSUS have a column 1 MFN duty rate of 4.2 percent ad valorem, and certain yttrium mixtures imported under item 423.96 of the TSUS have a column 1 MFN duty of 1.9 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty on yttrium bearing materials and compounds containing by weight more than 19 percent but less than 85 percent yttrium oxide equivalent until December 31, 1988.

***39. Tartaric acid and chemicals***

Under present law, items 907.65 (tartaric acid), 907.66 (potassium salts), 907.68 (cream of tartar) and 907.69 (sodium tartrate (Rochelle salts)) of the Appendix to the TSUS have a column 1 duty suspension expiring June 30, 1984. The conference agreement extends the temporary suspension of the column 1 duty for these products until December 31, 1988.

***40. Certain mixtures of magnesium chloride and magnesium nitrate***

Under present law, mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate are dutiable at a column 1 rate of duty of 4.2 percent ad valorem, but not less than the highest rate applicable to any component material. The conference agreement provides for temporary suspension of the column 1 duty rates on these products until December 31, 1987.

***41. Nicotine resin complex***

Under present law, nicotine resin complex, commonly known as nicorette, is classifiable under TSUS item 437.13 as a compound of nicotine. The current column 1 rate of duty is 4.2 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty rate until December 31, 1987.

***42. Rifampin***

Under present law rifampin is classifiable under TSUS item 437.32 with a column 1 rate of duty of 4.2 percent ad valorem. The conference agreement provides for the temporary supension of the column 1 duty rate until December 31, 1987.

*43. Lactulose*

Under present law, lactulose is classifiable under TSUS item 439.50 under the classification of "Other Drugs". The current column 1 rate of duty is 3.7 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty until December 31, 1987.

*44. Iron-dextran complex*

Under present law, iron-dextran complex is classifiable under TSUS item 440.00 as a drug imported in ampoules, capsules, lozenges, pills or other forms in medicinal doses. The current column 1 rate of duty is the rate provided for such product when imported in other forms, but not less than 4.2 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty until December 31, 1987.

*45. Natural graphite*

Under present law, natural graphite is covered under item 909.01 of the Appendix to the TSUS providing for a temporary suspension of the column 1 duty until December 31, 1984. The conference agreement extends the temporary suspension of duty until December 31, 1987.

*46. Zinc*

The conference agreement extends the temporary suspension of duty for various forms of zinc entered after June 30, 1984, until December 31, 1989.

*47. Certain diamond tool blanks*

Under present law, tool and drill blanks are classified under TSUS item 520.21 and 523.91. The current column 1 rates of duty for these items are 4.7 percent ad valorem for item 520.21 and 5.9 percent ad valorem for item 523.91. The conference agreement provides for the temporary suspension of the column 1 rate of duty until December 31, 1987.

*48. Clock radios*

Under present law, entertainment broadcast band receivers are currently provided for in the TSUS item 685.24. However, under item 911.95 of the Appendix to the TSUS, the column 1 duty is currently suspended until September 30, 1984. The conference agreement extends the temporary suspension of column 1 duty until December 31, 1986.

*49. Lace-braiding machines*

Under present law, lace-braiding machines are provided for in TSUS item 670.25, at a column 1 rate of 5.6 percent ad valorem. Parts for lace-braiding machines are provided for in TSUS item 670.74 at the same rate of duty. The conference agreement provides for temporary suspension of the column 1 duty on lace-braiding machines and parts thereof until December 31, 1987.

***50. Certain magnetron tubes***

The conference agreement provides for the temporary suspension of the 1.5 percent ad valorem column 1 duty on magnetron tubes with an operating frequency of 2.450 GHz and a minimum power of at least 300 watts and a maximum power not greater than 2,000 watts until December 31, 1986.

***51. Narrow fabric looms***

Under present law, narrow fabric looms are provided for in TSUS item 670.14 at a column 1 duty rate of 5.6 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty on such looms until December 31, 1987.

***52. Umbrella frames***

The conference agreement provides for the temporary suspension of the 15 percent ad valorem column 1 duty on umbrella frames until December 31, 1986.

***53. Crude feathers and down***

The conference agreement extends the temporary suspension of duty on crude feathers and down from June 30, 1984 until December 31, 1987.

***54. Canned corned beef***

Under present law, canned corned beef is dutiable under TSUS item 107.48 with a column 1 duty rate of 7.5 percent ad valorem. The conference agreement provides for the temporary reduction of the column 1 duty to 3 percent ad valorem for canned corned beef entered after October 30, 1983, until December 31, 1989.

***55. Hovercraft skirts***

The conference agreement extends the temporary suspension of duty on hovercraft skirts from June 30, 1983 until December 31, 1987.

***56. Disposable surgical drapes and sterile gowns***

Under present law, nonwoven manmade-fiber disposable gowns and surgical drapes are classified for tariff purposes as textile products under schedule 3 of the TSUS. The column 1, MFN, tariff treatment applicable to these products is as follows: Disposable apparel, 16 cents plus 24 percent ad valorem; surgical drapes, 16 cents plus 13 percent ad valorem.

The conference agreement equalizes the rates of duty between certain paper products and nonwoven manmade fiber articles by temporarily reducing the duty on bonded fiber fabric disposable sterile gowns of manmade fibers and bonded fiber fabric disposable surgical drapes of manmade fibers to 5.6 percent ad valorem until January 1, 1989.

***57. MXDA***

Under present law, MXDA has a column 1 (MFN) duty rate of 1.4 cents per pound plus 18.8 percent ad valorem and 1,3-BAC has a column 1 (MFN) duty rate of 1.7 cents per pound plus 16.8 per-

cent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty on m-xylenediamine (MXDA) and 1,3-bis[aminomethyl]cyclohexane(1,3-BAC), until December 31, 1987.

***58. 4,4'-Bis(α,α-dimethylbenzyl)diphenylamine***

Under present law, 4,4'-Bis(α,α-dimethylbenzyl)diphenylamine has a column 1 (MFN) duty rate of 1.4 cents per pound plus 18.8 percent ad valorem. The conference agreement provides for temporary suspension of the column 1 duty rate until December 31, 1987.

***59. Flecainide acetate***

Under present law, flecainide acetate has a column 1 rate of duty of 8 percent ad valorem. The conference agreement provides for the temporary suspension of the column 1 duty rate until December 31, 1987.

***60. Caffeine***

Under present law, caffeine is subject to a temporary column 1 duty reduction rate of 6 percent ad valorem expiring December 31, 1983. The conference agreement extends the expired reduction of column 1 duty to 4.1 percent ad valorem for caffeine entered after December 31, 1983, until December 31, 1987.

***61. Watch crystals***

Under present law, the column 1 duty rate on watch glasses other than round is 16.8 percent ad valorem. The conference agreement provides for the temporary reduction of the column 1 and LDDC rates of duty on watch glasses other than round watch glasses (watch crystals) for a 3-year period. It provides for a staged rate reduction from 6.2 percent ad valorem upon enactment to 5.2 percent ad valorem on January 1, 1987.

***62. Unwrought lead***

Under present law, unwrought lead is subject to a column 1 rate of duty of 3.5 percent ad valorem on lead content. A temporary reduction in the column 1 duty expired on June 30, 1983. The conference agreement extends the temporary reduction of duty for unwrought lead entered after June 30, 1983, until December 31, 1988.

***63. Flat knitting machines***

Under current law, flat knitting machines are subject to a column 1 rate of duty of 6.2 percent ad valorem or 5.6 percent ad valorem. A temporary suspension of duty on such machines expired on June 30, 1983. The conference agreement extends the expired duty suspension on power-driven flat knitting machines entered after June 30, 1983, until December 31, 1988, and provides duty-free treatment for parts of such machines.

***64. Certain menthol feedstocks***

The conference agreement suspends the column 1 rate of duty of 1.7 cents per pound plus 13.6 percent ad valorem (but not less than the highest rate applicable to any component material) on certain menthol feedstocks until December 31, 1987.

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***65. 2-methyl-4-chlorophenol***

The conference agreement suspends the column 1 rate of duty of 1.1 cents per pound plus 19.4 percent ad valorem on 2-methyl-4-chlorophenol until December 31, 1987.

***66. Unwrought alloys of cobalt***

Under present law, unwrought alloys of cobalt are dutiable at a column 1 rate of 6.8 percent ad valorem. The duty suspension on this product expired on June 30, 1983. The conference agreement extends the effective date of this duty suspension from June 30, 1983 to December 31, 1987.

***67. Circular knitting machines***

Under present law, circular knitting machines and parts thereof are subject to a column 1 rate of duty of 4.9 percent ad valorem. The conference agreement suspends the column 1 rate of duty for such machines and parts thereof until December 31, 1989.

***68. o-Benzyl-p-Chlorophenol***

The conference agreement suspends the 12.2 percent ad valorem column 1 duty rate on o-Benzyl-p-Chlorophenol until December 31, 1987.

***69. Certain benzenoid chemicals***

Under present law, trichlorosalicylic acid is subject to a column 1 rate of duty of 1.7 cents per pound plus 17.9 percent ad valorem and a column 2 rate of 7 cents per pound plus 57 percent ad valorem; m-aminophenol is subject to a column 1 rate of 8.4 percent ad valorem and a column 2 rate of 7 cents per pound plus 39 percent ad valorem; and 4-acetaminobenzene-sulfonyl is subject to a column 1 rate of 1.7 cents per pound plus 18.1 percent ad valorem and a column 2 rate of 7 cents per pounds plus 58 percent ad valorem. The conference agreement suspends the column 1 and column 2 rates of duty for these chemicals until December 31, 1987.

***70. m-Toluic acid***

Under present law, m-Toluic acid has a column 1 duty rate of 1.7 cents per pound plus 17.9 percent ad valorem. The conference agreement provides a temporary suspension of the column 1 duty rate until December 31, 1987.

***71. Technical and conforming amendments***

The conference agreement contains a number of amendments to the TSUS to correct purely technical errors in the schedules. Most of these errors were contained in Public Law 97–446, the omnibus miscellaneous tariff bill which was passed very late in the 97th Congress. Although most of the errors were minor such as the omission of a comma or the misspelling of an article description, many of them, such as those involving improper indentations, have resulted in the frustration of the legislative intent of the provisions.

*72. Effective dates*

In general, most of the provisions contained in Title I would become effective 15 days after the date of enactment. However, a number of provisions would be made retroactive to the date of expiration of previous duty reductions and suspensions.

## II. CUSTOMS AND MISCELLANEOUS PROVISIONS

### *1 Drawback*

Under present law, if imported articles are used in the manufacture of other articles which are ultimately exported, drawback or a refund of duties paid on the imported articles is permitted. Three separate provisions of the conference agreement would expand the application of current drawback provisions.

The first would allow drawback if the same person requesting drawback, subsequent to importation and within 3 years of importation of the merchandise, exports from the United States or destroys under Customs supervision fungible merchandise (whether imported or domestic) which is commercially identical to the merchandise imported.

The second would provide drawback for all packaging materials imported for packaging or repackaging imported merchandise.

Finally, the conference agreement provides that any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise for drawback purposes if no certificate of delivery is issued for such imported merchandise.

### *2. Public disclosure of certain manifest information*

Under present law, which requires manifests for all vessels arriving in the United States, the Customs Service may limit public availability to some of the manifest information, such as the foreign shipper of cargo coming into the United States. Moreover, the Customs Service automatically honors requests by an importer even if the confidentiality request was submitted 40 or 50 years ago. These requests do not have to be renewed.

The conference agreement provides for the public disclosure of certain available manifest information on imports into the United States. Information on cargoes concerning defense related or foreign policy information will not be available for public disclosure. This provision will require Customs to adopt similar practices regarding disclosure of import information as it now must follow for export information.

### *3. Virgin Islands excursion vessels*

Under present law, vessels (other than private pleasure boats) which visit the British Virgin Islands and return to the U.S. Virgin Islands are subject to U.S. Customs entry requirements.

The conference agreement would exempt from entry requirements of the customs laws certain vessels carrying passengers from the U.S. Virgin Islands to the British Virgin Islands and returning.

*4. Unlawful importation or exportation of certain vehicles*

The conference agreement would add a new section to the Tariff Act of 1930 establishing civil penalties of $10,000 for each violation of imports or exports of stolen self-propelled vehicles, vessels, aircraft and parts thereof. A verification procedure with appropriate documentation would also be established and any failure to comply would result in a civil penalty of $500. Customs officials are also encouraged to cooperate with other law enforcement agencies.

*5. Increase in amount for informal entry of goods*

Under present law, formal customs entries are required for importations of goods valued in excess of $250. The conference agreement would increase the allowance for informal entry from $250 to $1,250, excluding goods classified in schedule 3 of the TSUS, certain parts of schedule 7, and parts 2 and 3 of the Appendix.

*6. Certain country of origin marking requirements*

Under present law, imported articles are required to be physically marked with the name of the country of origin. However, a number of exceptions to this marking requirement are permitted.

The conference agreement would, without exception, require permanent marking of imported pipe, pipe fittings, compressed gas cylinders, and manhole rings or frames, covers, and assemblies thereof, to show the country of origin.

*7. Equipments and repairs of certain vessels exempt from duties*

Under present law, foreign-made equipment, parts, and materials for, and repairs made in foreign ports upon U.S.-flag vessels are subject to a duty upon the vessels first arrival in a U.S. port.

The conference agreement would exempt any U.S.-flag vessel that is away from a U.S. port for at least 2 years from the 50 percent ad valorem duty on repairs and equipment purchases, provided the repairs or equipment purchases were not made within 6 months of departure from a U.S. port and the vessel did not depart from a U.S. port for the purpose of obtaining overseas repairs.

*8. Articles returned from space*

Under present law, articles returned from space, like all other articles, are subject to U.S. Customs entry requirements. The conference agreement provides that return of certain articles from space shall not be considered an importation and customs entry of such articles shall not be required.

*9. Date of liquidation or reliquidation*

Under present law, increased duties found to be due to the Customs Service need not be paid on liquidation and need not be deposited in order to protest their assessment before the Customs Service; they must be paid prior to filing a civil action in the Court of International Trade, or the expiration of the time for filing such an action (180 days).

The conference agreement would prescribe the due date of liquidation or reliquidation of duties to be 15 days after the date of liquidation or reliquidation and, if not paid within 30 days after that

date, interest would be assessed from the 15th day after the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury. The Government would also be liable for interest if the importer later substantiates his claim.

***10. Operation of certain duty-free sales enterprises***

Under present law, "duty-free stores" are operated as bonded customs warehouses and the operators of such stores must be approved only by the U.S. Customs Service. The conference agreement would permit State and local government authorities having jurisdiction over airports or other exit points to require that operators of duty-free sales enterprises in such locations obtain concessions or approval before beginning business.

***11. Customs brokers***

The conference agreement makes comprehensive changes to the Tariff Act of 1930 with respect to the licensing of customs brokers. The legislation defines the term "customs business" and restricts the scope of Customs' review of customs brokers to such customs business. It also specifies that only licensed brokers may conduct customs business for third parties; sets forth licensing and permit procedures; establishes a duty for customs brokers to exercise responsibility and control over their customs business; and provides disciplinary proceedings, including monetary penalties and revocation or suspension of licenses or permits.

***12. Seizures and forfeitures***

Under present law, judicial forfeiture proceedings must be used in all cases where the seized property exceeds $10,000, even though most cases are uncontested. Further, since Customs may not currently use the net proceeds of one seizure to offset the unrecouped costs of another seizure, such losses must be covered by their regular appropriations.

The conference agreement provides for a more streamlined approach for handling civil forfeitures and expands the arrest authority of customs officers. It would allow the use of administrative rather than judicial forfeiture proceedings in many more cases by increasing the current ceiling from $10,000 to $100,000 for most articles and by removing the ceiling entirely for prohibited merchandise and conveyances which are used to import, export, transport, or store any controlled substance. It also would raise the amount of the bond which is required to be posted in order to require a judicial forfeiture from $250 to the lesser of $2,500 or 10 percent of the value of the property. Additionally, the conference agreement would establish the Customs Forfeiture Fund to help defray the escalating costs associated with forfeiture procedures and provide the authority for Customs to transfer seized or forfeited property to State or local law enforcement agencies. Finally, it would increase the compensation level which can be paid to informers from $50,000 to $250,000.

***13. Effective dates***

The provisions would generally become effective 15 days after the date of enactment. Provision is also made for the retroactive

application to January 1, 1983, of the amendments relating to vessel repairs if prescribed procedures are complied with.

***14. Small business assistance***

The conference agreement provides for establishment of a Trade Remedy Assistance Office in the International Trade Commission to provide information to eligible small businesses on the remedies and benefits available under U.S. trade laws and the procedures for filing for those remedies and benefits. Each agency responsible for administering a trade law also is required to provide similar technical assistance to small businesses.

***15. Foreign trade zone provisions***

The conference agreement makes two changes in current law regarding the operation of foreign trade zones. First, it precludes (until June 30, 1986) bicycle parts from receiving the benefits of foreign trade zone status unless such parts are exported. Second, it exempts certain tangible personal property being manipulated in foreign trade zones from State and local ad valorem taxation.

***16. Denial of deduction for certain foreign advertising expenses***

The conference agreement amends the Internal Revenue Code to provide for a denial of a business expense tax deduction for expenses of an advertisement carried by a foreign broadcasting undertaking directed to the U.S. market if the country denies a similar deduction for the cost of advertising in the United States.

***17. Certain relics and curios***

Currently, the importation of rifles and shotguns are severly restricted. The conference agreement would authorize the importation by a licensed importer, of all rifles and shotguns listed as curios or relics pursuant to section 921(a)(13) and all handguns listed as curios or relics, provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.

***18. Modification of duties on certain articles used in civil aviation***

A number of products are currently entitled to duty-free treatment pursuant to the GATT Agreement on Trade in Civil Aircraft. The conference agreement would authorize the President to proclaim modifications to a number of enumerated items in the Tariff Schedules of the United States in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to that agreement, as recently modified.

***19. Products of Caribbean Basin countries entered in Puerto Rico***

Although products of Puerto Rico used in the manufacture of other articles destined for the United States are entitled, under present law, to be considered as products of beneficiary countries for purposes of applying the rules-of-origin criteria under the Caribbean Basin Economic Recovery Act (CBERA), final processing must occur in a beneficiary country to be eligible for duty-free treatment upon importation into the United States.

The conference agreement would allow products of a beneficiary country under the CBERA to enter Puerto Rico under bond for manufacture and later to be withdrawn for consumption free of duty if the products otherwise are entitled to enter duty-free under the CBERA, notwithstanding the fact that the products are not being imported directly from a beneficiary country.

***20. User fee for customs services at certain small airports***

The U.S. Customs Service has discontinued its service at a number of small airports as a cost-cutting measure. The conference agreement provides for customs services to be available at certain small airports and grants authority to the Secretary of the Treasury to charge a user fee for such services.

***21. Notification of certain actions by the U.S. Customs Service***

The conference agreement requires the U.S. Customs Service to notify the Congress 90 days before undertaking any major field reorganization or consolidation significantly affecting any district, regional or border office.

***22. Columbia-Snake Customs District***

The existing configuration of the Customs Service has the Columbia-Snake area carved up into three Customs district offices, reporting to two different regional Customs offices—Los Angeles and Chicago.

The conference agreement would require the Commissioner of Customs to establish a customs district in the Pacific Northwest to be called the "Columbia-Snake Customs District" with headquarters in Portland, Oregon.

***23. Reliquidation of certain mass spectrometer systems***

The conference agreement requires the Secretary of the Treasury to reliquidate, with a refund of duties, the entry of two mass spectrometer systems imported into the United States for the use of Montana State University, Bozeman, Montana.

***24. Max Planck Institute for Radioastronomy***

Scientific instruments and apparatus are currently dutiable under a number of different provisions of the TSUS, although some are duty-free if a comparable article is not produced in the United States. The conference agreement would provide the Secretary of the Treasury with authorization to admit free of duty under prescribed procedures certain instruments or apparatus provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project, being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute, for the construction, installation, and operation of a sub-mm telescope in Arizona.

***25. Duty-free entry for research equipment for North Dakota State University, Fargo, North Dakota***

The conference agreement provides for duty-free entry of research equipment imported for use by the Cereal Chemistry and

Technology Department of North Dakota State University, Fargo, North Dakota, entered on September 15, 1983.

***26. Duty-free entry for pipe organ for the Crystal Cathedral, Garden Grove, California***

The conference agreement provides for the reliquidation with refund of duties of a pipe organ for the Crystal Cathedral of Garden Grove, California, that entered subject to a duty of $18,900. The organ was entered in six shipments between April 30, 1981, and April 8, 1982.

***27. Duty-free entry for scientific equipment for the Ellis Fischel State Cancer Hospital, Columbia, Missouri***

The conference agreement directs the Secretary of the Treasury to reliquidate with a refund of duties in the amount of $20,328 certain entries of scientific equipment by the Ellis Fischel State Cancer Hospital of Columbia, Missouri.

***28. Duty-free entry of organs imported for the use of Trinity Cathedral of Cleveland, Ohio***

The conference agreement provides for the retroactive duty-free entry of pipe organs manufactured in the Netherlands, and imported for the use of Trinity Cathedral of Cleveland, Ohio, during 1973–1978. The Secretary of the Treasury would be directed to refund the duties which have been paid.

***29. Possible EEC action on corn gluten***

The conference agreement establishes the sense of Congress that if unilateral action is taken by the European Economic Community to restrict or inhibit the importation of U.S. nongrain feed ingredients (including corn gluten feed) or vegetable fats and oils (including soybean products), the United States should act immediately to restrict EEC exports of at least comparable value.

***30. Honey imports***

The conference agreement contains a sense of the Senate that the Secretary of Agriculture should promptly request the President to call for an International Trade Commission investigation of honey imports, under section 22 of the Agriculture Adjustment Act. That section directs the Secretary to advise the President whenever he has reason to believe that imports of any article might interfere with U.S. price support or other programs in various ways. If the President agrees there is reason for such a belief, he may direct the ITC to investigate. Based on appropriate ITC findings, the President may impose tariffs, quotas, or other import restrictions.

***31. Copper imports***

The conference agreement established the sense of Congress, that (*a*) the President should negotiate agreements with the principal foreign copper producing countries to reduce the annual production of copper by those countries, and (*b*) the President should submit a report to Congress within 12 months of the date of enactment ex-

plaining: (1) the results of his negotiations; or (2) why he felt it was inappropriate or unnecessary to undertake such negotiations.

### *32. Disapproval of Presidential determinations under section 203 of the Trade Act of 1974*

Under current law, if the President does not follow the action recommended by the International Trade Commission in import relief cases brought under section 201 of the Trade Act of 1974, or if the President decides not to award any import relief in such cases, the action recommended by the Commission shall take effect if Congress disapproves the President's action. Such disapproval must take the form of a concurrent resolution disapproving of the President's intended course of action, adopted by both Houses within 90 days of the date upon which the ITC's recommendation is transmitted to Congress. A concurrent resolution does not require the President's signature and does not have the force of law.

Under the conference agreement, congressional disapproval of the President's action must take the form of a joint resolution passed within the 90-day period provided for in current law. A joint resolution must be presented to the President and, if signed, has the force of law.

### *33. Section 201 criteria*

In a case brought under section 201 of the Trade Act of 1974, the International Trade Commission must take all relevant economic factors into account when making a decision as to whether or not increased imports are a substantial cause or threat of serious injury to a domestic industry. Such factors may include the idling of productive facilities and trends in the industry's sales, inventories, profits, unemployment, or underemployment.

The conference agreement provides that the presence or absence of any one of these factors shall not *by itself* be the key to an injury determination by the Commission. The conferees also clarified certain terms found in section 201.

## III. INTERNATIONAL TRADE AND INVESTMENT (RECIPROCITY)

### *1. Negotiating authority and consultations*

The conference agreement for the first time gives the President specific negotiating authority with respect to international trade in services; U.S. foreign direct investment and foreign export performance requirements; and international trade and investment in high technology products and related services. In general, the objective of negotiations in these areas is to reduce or eliminate foreign barriers (tariff and nontariff) or other distortions, and to develop internationally agreed rules, including dispute settlement procedures, aimed at reducing or eliminating such barriers or distortions. With regard to high technology, the conferees also specified that commitments should be sought from foreign governments to provide minimum safeguards of intellectual property rights.

Present law provides for advice from the private sector when the U.S. Trade Representative formulates specific negotiating objectives on trade matters. The conference agreement requires regular consultations with services industries and with States on trade policy issues. Establishment of intergovernmental policy advisory committees also is required.

### *2. Trade estimates and reports on barriers*

Current law provides for an annual report to Congress from the USTR on the trade agreements program and on import relief and adjustment assistance for workers, firms, and communities.

The conference agreement requires the USTR annually to identify and estimate the trade-distorting impact on U.S. commerce of significant foreign barriers to the exportation of U.S. goods and services and restrictions on U.S. foreign direct investment. In annual reports to Congress, the USTR must include information on such analyses and estimates and on actions taken to eliminate the barriers identified (or the reasons why no action was taken). The USTR also is required to consult with the House Ways and Means Committee and the Senate Finance Committee on trade policy priorities aimed at expanding foreign market opportunities.

### *3. Retaliatory authority*

Under section 301 of the Trade Act of 1974, if the President determines that a foreign government is unfairly restricting U.S. commerce, he may take action to obtain the elimination of such restrictions; the President may modify U.S. trade agreement concessions and impose duties or other import restrictions against the products or services of the foreign country concerned.

The conference agreement clarifies the President's authority to reflect the fact that he may take action in response to unfair for-

eign practices on investment, as well as goods and services. The conferees also clarified the President's authority to impose restrictions on the access of foreign services firms to the United States, as well as to impose fees in response to foreign unfair practices.

In cases involving foreign export performance requirements affecting U.S. foreign direct investment made after the date of enactment, the conferees gave the USTR authority to impose duties or other import restrictions on the products or services of the country involved, including the exclusion from entry into the United States of products subject to such requirements. The USTR's authority is to be used for the purpose of seeking the reduction or elimination of foreign export performance requirements.

***4. Data collection, and services industry development***

The International Investment Survey Act of 1976 requires periodic reports on international investment in the United States and by U.S. persons overseas. The conference agreement redesignates the act as the International Investment and Trade in Services Survey Act and adds services to the reporting requirement.

The conferees also directed the Secretary of Commerce to establish a Services Industries Development Program to develop policies to increase the competitiveness of U.S. services industries in foreign markets; collect and analyze data and other information on a wide range of domestic and foreign factors which affect the international competitiveness of U.S. services industries; and report to Congress and the President biennially on the information collected under the program.

***5. High technology exports***

The conference agreement authorizes the President to enter into bilateral or multilateral agreements which may be necessary to achieve the bill's objectives relating to high technology products. The President also is given 5-year authority to eliminate duties on certain high technology products (generally semiconductors).

***6. Initiation of section 301 petitions***

Under section 301 of the Trade Act of 1974, if the President determines that a foreign country maintains unfair restrictions on U.S. commerce, he may take action in response to an investigation initiated as a result of a petition, or at his own discretion. The conference agreement authorizes the USTR to self-initiate section 301 investigations as a foundation for advice to the President.

***7. Definitions***

The conference agreement provides definitions for a number of terms found in the bill or in the Trade Act of 1974: "commerce," "unreasonable, unjustifiable and discriminatory," "international trade," "services" and "Secretary."

## IV. TRADE WITH ISRAEL

### *1. Scope of authority to enter into and implement trade agreements modifying or eliminating tariff and nontariff trade barriers*

The President does not have authority under present law to enter into trade agreements proclaiming reductions, elimination, or increases in U.S. duties. Section 102 of the Trade Act of 1974 authorizes the President until January 3, 1988 to negotiate and enter into trade agreements to harmonize, reduce or eliminate nontariff barriers subject to the expedited congressional approval procedure of sections 151–154 if (1) he consults in advance with the committees of jurisdiction concerning implementation; (2) gives the Congress at least 90 days prior notification of his intention to enter into the agreement; and (3) after entry submits a copy of the agreement together with a draft implementing bill, statement of administrative action, and a statement of how the agreement serves U.S. interests and why the bill and proposed administrative action is required. Committees are automatically discharged from consideration of the implementing bill after 45 days; each House has 15 days to act on the bill with no amendments.

The conference agreement authorizes the President to negotiate and enter into trade agreements providing for elimination or reduction of U.S. duties under sections 102 and 151–154 procedures with Israel only. However, the advance consultation and 90-day prior notification requirements would not apply to such a tariff agreement with Israel. The agreement with Israel must take fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country if the preference has been challenged by the United States under section 301 of the Trade Act and the GATT (e.g., citrus with the European Communities).

A trade agreement eliminating or reducing a U.S. duty may be entered into under section 102 authority with any country other than Israel only if the following requirements are met in addition to the advance consultations and 90-day prior notification procedures of present law: (1) the country requests negotiation of the agreement; (2) at least 60 legislative days in advance of the 90-day notice the President notifies and consults with the House Ways and Means and Senate Finance Committees regarding the negotiation; and (3) neither of those committees has disapproved of the negotiation during that 60-day period.

No trade benefit can be extended to any country by reason of extending any trade benefit to a country under a trade agreement entered into under section 102.

*2. Provisions relating to trade agreement with Israel*

The conference agreement requires that a trade agreement with Israel reducing or eliminating any U.S. duty apply only to articles which meet rule-of-origin requirements of (1) direct importation; (2) 35 percent minimum local content, of which 15 percent may be U.S. content; (3) the growth, product, or manufacture of Israel or substantially transformed into a new or different article of Israel; and (4) regulations to prevent mere pass-through operations or transshipments.

Present laws providing protections to U.S. industry against injurious import competition and unfair trade practices (e.g., dumping or subsidies) would apply to a trade agreement with Israel, as well as emergency relief provisions with respect to imports of agricultural perishable products from Israel, similar to such provisions under the Caribbean Basin Initiative.

## V. GENERALIZED SYSTEM OF PREFERENCES (GSP) RENEWAL

### *1. Basic authority, time limits and reports*

Present law authorizes the President to extend GSP duty-free treatment to eligible articles from designated beneficiary developing countries (BDCs) until January 3, 1985, having due regard for (1) the effect of such action on furthering the country's economic development, (2) the extent comparable actions are taken by other developed countries, and (3) the anticipated impact on competing U.S. products.

The conference agreement extends the GSP program for 8½ years until July 4, 1993, and expands the authority criteria to include the effect of GSP duty-free treatment on furthering the country's economic development through expansion of exports and the extent of the country's competitiveness with respect to eligible articles. The President must report to Congress within 5 years (on or before January 4, 1990) on the operation of the program and annually on the status of worker rights within each BDC.

### *2. Eligible countries*

Present law includes a list of developed countries ineligible for GSP and various mandatory criteria which must be met for a country to be designated by the President as a BDC. Some of these criteria may be waived on the basis of a national economic interest determination. Additional discretionary criteria must be taken into account by the President in designating beneficiary countries.

The conference agreement deletes Hungary from the statutory list of excluded countries. It also adds mandatory criteria subject to the national interest waiver relating to whether the country has taken or is taking steps to afford internationally recognized worker rights to workers in the country, and clarifies that present provisions on nationalization, expropriation, and seizure of property also includes patents, trademarks, or copyrights.

Additional discretionary factors require the President to take into account (1) the extent the country provides adequate and effective means for intellectual property right protection, (2) the extent the country has taken action to reduce trade distorting investment practices and to reduce or eliminate barriers to services trade; (3) whether or not the country has taken or is taking steps to afford its workers internationally recognized worker rights; and (4) the extent the country has assured the United States it will refrain from engaging in unreasonable export practices.

*3. Ineligible articles*

Present law includes a list of products which cannot be designated eligible for GSP. In addition, the President cannot designate articles he determines to be import sensitive in the context of GSP.

The conferees agreed to add footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were ineligible for GSP as of April 1, 1984, to the statutory list of product exclusions. The Secretary of the Treasury must consult with the U.S. Trade Representative prior to prescribing regulations on the rule-of-origin requirements.

*4. Limitations on preferential treatment*

*a. Review and reports.*—The conference agreement requires the President to conduct a general review of eligible articles by January 4, 1987, and periodically thereafter, and to report to the Congress by January 4, 1988, on the actions he has taken to withdraw, suspend, or limit GSP benefits for failure to take actions described in the country designation criteria.

*b. Competitive need limits (cutbacks and waivers).*—Under so-called competitive need limits of present law, if imports of a particular article from a particular country exceed either (1) a dollar amount indexed to U.S. GNP (about $57 million in 1983) or (2) 50 percent of the total value of U.S. imports of the article in a calendar year, then that article from that country is no longer eligible for GSP treatment within 90 days after the close of that preceding calendar year. The President also has general authority to withdraw, suspend, or limit duty-free treatment for any eligible articles from any BDC.

The conference agreement requires the graduation of any beneficiary country from GSP on all articles if its GNP reaches $8,500, indexed by 50 percent of the annual change in U.S. GNP. Graduation would be phased out over a 2-year period. If, after any general product review, the President determines that a country has demonstrated a sufficient degree of competitiveness in a particular article relative to other BDCs, then he must reduce the competitive need limits on that article from that country from $57 million/50 percent to $25 million/25 percent.

The President may also waive competitive need limits on any article as of January 4, 1987 if he (1) receives ITC advice on whether any U.S. industry is likely to be adversely affected; (2) determines a waiver is in the national economic interest based upon the country designation factors as amended under section 501 and 502(c); and (3) publishes his determination. In making the national interest determination the President must give great weight to (1) assurances of equitable and reasonable market access in the BDC; and (2) the extent the country provides adquate and effective intellectual property rights protection. Total waivers for all countries above present competitive need limits (i.e., $57 million/50 percent) cannot exceed 30 percent of total GSP duty-free imports in any year, of which a maximum of one-half (i.e., 15 percent of total GSP duty-free imports) may apply to waivers on articles from countries which account for at least a 10 percent share of total GSP benefits or have a

$5,000 per capita GNP. Changes in competitive need limits would apply no later than July 1 after the preceding calendar year.

*c. Exceptions to competitive need limits.*— The conference agreement retains the special exception to competitive need limits for the Philippines under present law. The conference agreement would exempt least developed developing countries designated by the President from the competitive need limits after a 60 day notification to Congress. The exemption from the 50 percent competitive need limit under present law for articles not produced in the United States on January 1, 1975, is updated to January 3, 1985. The President may also waive the 50 percent competitive need limit if total imports of the article in the preceding calendar year do not exceed $5 million (an increase of the $1 million de minimis level under present law).

***5. Agricultural exports of BDC's***

The conference agreement adds a requirement to present law that appropriate U.S. agencies assist BDCs to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of production of foodstuffs for their own citizens.

## VI. TRADE LAW REFORM (AMENDMENTS TO THE COUNTERVAILING DUTY (CVD) AND ANTIDUMPING (AD) TRADE LAWS)

Title VI contains a number of amendments to the countervailing duty and antidumping laws which provide domestic industries and workers the basic trade remedies in the form of offsetting duties against injurious imports resulting from foreign subsidy and dumping practices. The administering authority for purposes of conducting investigations to determine the existence and amount of subsidies or dumping on imports of particular products is the Department of Commerce; the International Trade Commission determines whether such imports cause or threaten material injury to the domestic industry. The basic purposes of the amendments in the conference agreement are to clarify the coverage of the countervailing duty and antidumping laws with respect to particular practices, to simplify and improve the administration of these laws in order to reduce the time and expense of processing cases and of providing relief in the public interests, and to assist small businesses in seeking appropriate remedies under these and other trade laws. The substantive provisions of the conference agreement are described below.

### *1. Clarification of coverage*

Present law applies CVD's when the administering authority finds a subsidy with respect to merchandise imported into the United States and the International Trade Commission (ITC) finds material injury or threat thereof by reason of imports of that merchandise. In AD investigations the administering authority determines whether foreign merchandise is being, or is likely to be, sold in the United States at less than its fair value.

The conference agreement clarifies that both laws cover sales and likely sales, as well as imports that have already occurred, and that they apply to certain leasing arrangements.

### *2. Waiver of verification*

The conference agreement includes a procedure in CVD law, similar to that in AD law, to permit expedited preliminary determinations based on information received during the first 50 days (rather than the normal 85-day time period) if the petitioner and other interested parties waive verification and agree to have the determination made on the basis of the record then available.

### *3. Termination or suspension of investigation*

Under present law in "extraordinary circumstances," the administering authority may *suspend* a CVD investigation before its final determination upon acceptance of an agreement from the Government to eliminate completely the injurious effects. The agreement

may take the form of quantitative restrictions agreement on the volume of imports. Before suspending any CVD or AD investigation the administering authority must (1) notify and consult the petitioner of its intention, and give 30 days advance notice to other parties and to the ITC; (2) provide a copy and explanation of the proposed agreement to the petitioner; and (3) permit all parties to submit comments and information. No form of suspension agreement can be accepted unless the administering authority is satisfied suspension is in the public interest and effective U.S. monitoring of the agreement is practicable. Upon withdrawal of a petition the administering authority may *terminate* a CVD or AD investigation after notice to all parties to the investigation; the law does not specify the basis or criteria.

The conference agreement amends the CVD and AD laws to require the adminstering authority to take additional public interest factors into account prior to determining whether to terminate or suspend investigations based on settlement agreements involving quantitative restrictions and to consult to the extent practicable with potentially affected consuming industries and producers and workers in the domestic industry. The additional factors include whether the agreement would have a greater adverse effect on consumers than the imposition of duties, the relative impact on the U.S. international economic interest, and the relative impact on domestic industry competitiveness. Comments would be permitted from all interested parties, rather than only parties to the investigation, prior to a settlement agreement.

***4. Critical circumstance determinations***

Under present law, if the petitioner alleges and the administering authority finds critical circumstances in an affirmative preliminary CVD or AD determination, suspension of liquidation applies to unliquidated entries retroactively 90 days.

The conference agreement clarifies that final critical circumstance findings in CVD investigations may be affirmative even though the preliminary determination was negative.

***5. Simultaneous investigations/hearings***

In normal cases under present law, preliminary CVD determinations are required within 85 days, final determinations within 75 days thereafter; AD preliminary determinations are required within 160 days, final determinations within 75 days thereafter. These time periods are extended in extraordinarily complicated cases. The administering authority and the ITC each must hold a hearing before making their final CVD or AD determinations, upon the request of any party to the investigation.

The conference agreement authorizes, if requested by a petitioner, extension of a final CVD determination until the date of the final determination on an AD investigation if there are simultaneous investigations involving imports of the same merchandise. Also, if investigations are initiated under both laws within 6 months of each other but before a final injury determination in either case regarding the same merchandise from the same country, only one ITC hearing would be required. The ITC could require

a hearing in special circumstances and would allow submission of additional relevant written comments.

*6. Countervailing duties application on country-wide basis*

The conference agreement provides for presumptive application of CVD's to all merchandise from the country investigated, except that the CVD order may provide for differing CVD's if there is a significant differential between companies receiving subsidy benefits or a state-owned enterprise is involved.

*7. Conditional payment of CVD's*

The conference agreement adds a provision to CVD law similar to existing section 738 in AD law, requiring that estimated CVD's be deposited by the importer with Customs before merchandise subject to a CVD order can be removed from warehouse.

*8. Initiation of AD investigations*

Present law requires the administering authority to self-initiate an AD investigation whenever it determines, from information available to it, that a formal investigation is warranted. There is no formal requirement regarding monitoring of products subject to existing AD orders to determine whether self-initiation with respect to additional suppliers is warranted.

The conference agreement establishes a procedure whereby the adminstering authority may monitor imports from additional supplier countries for up to one year in order to determine whether self-initiation of additional dumping cases is warranted.

For monitoring to be established, three conditions must be met: (1) there is more than one AD order in effect on the product; (2) the administering authority has reason to believe or suspect an extraordinary pattern of persistent injurious dumping from one or more additional suppliers; and (3) in the judgment of the administering authority this extraordinary pattern is causing a serious commercial problem for the domestic industry.

*9. Consultations and determinations regarding quantitative restriction agreements*

Present law requires the administering authority or the ITC to review any CVD suspension agreement whenever it receives information or a request showing changed circumstances sufficient to warrant a review. If the ITC determines a suspension agreement no longer eliminates completely the injurious effect of subsidized imports, the administering authority and the ITC proceed with the investigation as if the agreement had been violated on that date. No provision of present law requires efforts to eliminate the subsidy margin while the suspension agreement is in effect, or the imposition of CVD's upon its expiration equal to any remaining injurious subsidy.

The conference agreement requires that within 90 days after any quantitative restriction agreement is in effect while a CVD investigation is suspended the President enter into consultations with the foreign governments concerned to seek complete elimination of the subsidy practice or of its injurious effects. At the direction of the President, the administering authority would modify a quantitative

restriction agreement as a result of the consultations. Before the expiration date, if any, of a quantitative restriction agreement, the administering authority shall at the direction of the President, initiate a proceeding to determine the existence and amount of any remaining subsidy and the ITC would determine whether imports upon termination of the agreement would cause or threaten material injury to the domestic industry. If the agreement terminates, the administering authority would issue a CVD order in the amount of any injurious subsidy margin.

***10. Annual reviews/revocation***

Present law requires that at least once during each 12-month period following publication of a CVD or AD order, or notice of suspension of an investigation, the administering authority must (1) review and determine the amount of any net subsidy; (2) review and determine the amount of any AD duty; and (3) review the current status of, and compliance with, any suspension agreement, including the amount of any net subsidy or dumping margin involved. The administering authority or the ITC also conduct a review whenever they receive information concerning or a request for the review of an agreement or determination warranted on the basis of changed circumstances.

The conference agreement requires annual reviews of outstanding CVD and AD orders only upon request. This amendment is designed to limit the number of reviews in cases in which there is little or no interest, thus limiting the burden on petitioners and respondents, as well as the administering authority.

Under present law the administering authority may revoke a CVD or AD order in whole or in part or terminate a suspended investigation after an annual review. The conference agreement requires that during an ITC investigation the party seeking revocation of an AD order have the burden of persuasion on whether there are changed circumstances sufficient to warrant revocation. Also, the administering authority cannot revoke a CVD order or terminate a suspended investigation on the basis of offsets (e.g., export taxes).

***11. Cumulation***

The ITC, in making its determinations of material injury, is required by present law to assess both the volume of imports of the merchandise subject to investigation and the consequent effects of such imports. The decision to cumulate is made on a case-by-case basis and is solely within the discretion of each individual Commissioner. This practice has neither been ratified nor prohibited by statute.

The conference agreement requires that the ITC cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if the imports compete with each other and with like products of the domestic industry in the U.S. market.

***12. "Threat of material injury" criteria***

In making material injury determinations under present law the ITC must consider, among other factors on a case-by-case basis, (1)

the volume of imports of the merchandise, (2) the effect of such imports on prices in the United States for like products, and (3) the impact of such imports on domestic producers of like products. In determining whether there is a threat of material injury in CVD investigations, the ITC must consider such information as may be presented by the administering authority on the nature of the subsidy and the effects likely to be caused by the subsidy. There are no other factors specified in present law for determining the threat of material injury.

The conference agreement adds criteria the ITC must consider in determining whether there is a probability the merchandise (whether or not actually being imported at the time) will be the cause of actual injury based on any demonstrable adverse trend, including such factors as:

(1) an increase in production capacity in the exporting country likely to result in a significant increase in exports of the merchandise to the United States, including any increase in existing unused capacity;

(2) a rapid increase in U.S. market penetration and the probability such penetration will increase to an injurious level;

(3) the likelihood that imports will enter at prices that will have a depressing or suppressing effect on domestic prices; or

(4) a substantial increase in inventories in the United States;

(5) the presence of underutilized capacity for producing the merchandise in the exporting country; and

(6) the potential for product-shifting if production facilities owned or controlled by foreign manufacturers which can be used to produce products subject to AD or CVD investigations or final orders are also used to produce the merchandise under investigation.

Any determination must be based on the evidence that the threat of injury is real and actual injury is imminent, not on the basis of mere supposition or conjecture.

***13. Interested parties***

Present law defines the term "interested party" for standing to file CVD or AD petitions on particular merchandise as (1) a foreign manufacturer, producer, or exporter, or U.S. importer, or a trade or business association, a majority of whose members are importers; (2) the foreign government; (3) a manufacturer, producer, or wholesaler of a like product; (4) a union or group of workers representative of an industry manufacturing, producing or wholesaling a like product; and (5) a trade or business association, a majority of whose members manufacture, produce or wholesale a like product.

The conference agreement expands the definition of an interested party with standing to file AD or CVD petitions to include coalitions of firms, unions, or trade associations that have individual standing.

***14. Definition of domestic industry***

The term "industry" for purposes of CVD and AD investigations under present law means the domestic producers of a "like product", and the term "like products" has been defined and interpreted to include only those products which are identical or most simi-

lar in their characteristics to the imported article. Accordingly, producers of products being incorporated into a processed or manufactured article (i.e., intermediate goods or component parts) are generally not included in the scope of the domestic industry that the ITC analyzes for the purposes of determining injury.

The conference agreement defines the domestic industry for purposes of CVD and AD investigations on wine and grape products to include producers of the principal raw agricultural product, if they allege material injury or threat, as well as the producers of wine and grape products.

A previous petition may be refiled under the section if the purpose is to avail the petitioner of this amendment. The provision would expire in two years, i.e., apply to petitions filed or refiled on or before September 30, 1986.

***15. Upstream subsidies***

Under present law the term "subsidy" has the same meaning as the term "bounty or grant" and includes, but is not limited to, an illustrative list of export subsidies and certain domestic subsidies, if provided or required by Government action to a specific enterprise or industry, or group thereof (i.e., not generally available), and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise.

The conference agreement defines "upstream subsidy" as any subsidy described in present law that is (1) paid or bestowed by a government with respect to an input used to manufacture or produce in that same country merchandise subject to a CVD proceeding; (2) in the judgment of the administering authority bestows a competitive benefit on that merchandise; and (3) has a significant effect on the cost of manufacture or production of the merchandise. Customs unions are treated as one country if the subsidy is bestowed by the customs union. The administering authority shall decide that a competitive benefit has been bestowed when the price for the input used in manufacture or production of the merchandise subject to investigation is lower than the price the manufacturer or producer would otherwise pay for the input from another seller in an arms-length transaction. If the administering authority has determined a subsidy exists on the input in a previous proceeding, the authority may (a) where appropriate, adjust the price the manufacturer or producer would otherwise pay for the input to reflect the effects of the subsidy, or (b) select in lieu of that price a price from another source. Whenever the administering authority has reasonable grounds to believe or suspect an upstream subsidy is being paid or bestowed, the administering authority shall investigate whether it is in fact and, if so, shall include the amount of any competitive benefit, not to exceed the amount of upstream subsidy, in the amount of any CVD imposed on the merchandise under investigation. The conference agreement also extends the time periods for preliminary and final CVD determinations when the administering authority concludes additional time is necessary to make determinations concerning upstream subsidies.

The conference agreement does not affect the basic definition of subsidy in any way. The potential for an upstream subsidy exists only when a sector-specific benefit meeting all the other criteria of

being a subsidy is provided to the input producer. The provision is also limited to subsidies paid or bestowed by the country in which the final product is manufactured.

***16. Purchase price/foreign market value in AD determinations***

The conference agreement allows a reseller's price to serve as purchase price in AD determinations if it is prior to the date of importation and the merchandise is for exportation to the United States, i.e., to deal with transshipment situations. The conference agreement also provides that the foreign market value in an exporter's sales price situation is the price at the time the goods are sold in the United States to an unrelated party, rather than the time of exportation of the merchandise to the United States.

***17. Verification***

The administering authority is required by present law to verify all information relied upon in making a final CVD or AD determination. If verification is not possible, the administering authority uses the best information available to it for making the determination. Verification is not required by statute in annual review proceedings of outstanding AD or CVD orders. However, the administering authority normally verifies information where it believes there is a significant issue of law or fact.

The conference agreement requires verification of information whenever the administering authority revokes a CVD or AD order. It also requires verification of information used in annual reviews and of outstanding CVD and AD orders if timely requested by an interested party; such verification is not required if it has occurred upon timely request in the two immediately previous annual reviews, except for good cause shown. This amendment generally codifies the current administrative practice of the Department of Commerce.

***18. Confidential information/ex parte meetings***

Under present law, information submitted to the administering authority or the ITC designated as confidential cannot be disclosed to any person (other than those directly concerned with carrying out the investigation) without the consent of the person submitting it unless pursuant to a protective order upon receipt of an application which describes the information requested and reason for the request.

The conference agreement permits release of confidential information to an officer or employee of the U.S Customs Service directly involved in conducting an investigation regarding fraud and provides a standardized procedure for requesting confidential treatment and obtaining release of confidential information.

Present law requires the administering authority and the ITC to maintain a record of ex parte meetings between persons providing factual information for an "investigation" and the person making the determination or the person making a recommendation to that person.

The conference agreement provides that ex parte record requirements apply to "proceedings," not just "investigations," and shall

be written if information relating to that proceeding is presented or discussed.

*19. Sampling and averaging*

For purposes of determining foreign market value only in AD investigations, present law authorizes the administering authority to use averaging or sampling techniques whenever a significant volume of sales is involved or a significant number of price adjustments is required, and to decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

The conference agreement expands the instances in which the administering authority may use sampling and averaging techniques to determinations of U.S. price or foreign market value in AD investigations or in carrying out annual reviews of outstanding AD or CVD orders.

*20. Interest*

Present law ties interest on overpayments or underpayments of AD or CVD duties to the publication date of an ITC affirmative injury determination. The interest rate is 8 pecent or the rate in effect when duties are determined, whichever is higher.

The conference agreement changes (1) the date of interest payable to the date of publication of a CVD or AD order or AD findings and (2) the interest rate to the Internal Revenue Code level.

*21. Drawbacks*

Under present law only AD duties are currently explicitly stated to be normal duties for drawback purposes; CVD duties are not addressed. The conference agreement treats CVD's as well as AD's like other duties for drawback purposes.

*22. Judicial review*

Title V of the Trade Act of 1930, as amended by title X of the Trade Agreements Act of 1979, provides for judicial review of CVD and AD proceedings initially in the U.S. Court of International Trade (CIT). The Court of Appeals for the Federal Circuit may review the CIT's decision on an appeal. Under section 516A, certain determinations by the administering authority are reviewable by the CIT prior to the issuance of a final determination or the publication of a final order, i.e., certain interlocutory determinations are reviewable immediately even though the administrative proceeding has not been concluded.

The conference agreement eliminates all interlocutory judicial reviews by the U.S. Court of International Trade during the course of CVD and AD investigations. All challenges to agency determinations would be combined and reviewable by the court after final agency action has been taken. The agreement also clarifies when negative portions of affirmative determinations may be reviewed, and that a final affirmative determination by the administering authority may be contested when an appeal is based on a negative determination by the ITC.

*23. Adjustment study*

The conference agreement requires the Secretary of Commerce to undertake a study of current practices that are applied in making adjustments to purchase price, exporter's sales price, foreign market value, and constructed value in determining dumping duties. The Secretary must complete the study within 1 year after the date of enactment of the bill and submit a written report to the Congress. The report would contain whatever recommendations the Secretary deems appropriate on the need and means for simplifying and modifying current adjustment practices.

*24. Industrial targeting studies*

The conference agreement requires the Secretaries of Commerce and Labor, the U.S. Trade Representative, and the Comptroller General to each undertake and submit to Congress not later than June 1, 1985 a comprehensive study of problems of foreign industrial targeting including:

(1) whether it is an unfair trade practice;

(2) whether existing laws adequately address the subsidy element;

(3) the extent targeting significantly affects U.S. commerce; and

(4) any recommended legislation necessary.

*25. Trade remedy assistance*

The conference agreement establishes a Trade Remendy Assistance Office in the ITC to provide information to the public, upon request, concerning remedies and benefits available under the various trade laws and procedural requirements.

Each agency responsible for administering these laws must provide technical assistance to small businesses (without adequate internal resources nor financial ability to obtain qualified outside assistance) to enable them to prepare and file petitions and applications.

## VII. AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES

### *1. U.S. International Trade Commission*

Present law requires the annual authorization of appropriations for the International Trade Commission (ITC). Under the conference agreement, the ITC is authorized $28,410,000 for fiscal year 1985. The agency may use up to a maximum of $2,500 for entertainment expenses.

### *2. U.S. Customs Service*

Current law provides for the annual authorization of appropriations for the Customs Service. The conference agreement authorizes $686,399,000 in appropriations for the Customs Service for fiscal year 1985, of which $28,070,000 is for the Customs air interdiction program. A maximum of $15 million may be spent on the Operation Exodus export enforcement program. Also, the agreement imposes a $25,000 cap on the amount that individual Customs inspectors can earn in overtime pay each year.

### *3. U.S. Trade Representative*

The Trade Act of 1974 authorized appropriations for the Office of the U.S. Trade Representative (USTR) in such amounts as may be necessary. Under the conference agreement, USTR is authorized $14,179,000 for fiscal year 1985 and an $80,000 limit is placed on entertainment and representational expenses.

## VIII. STEEL PROVISIONS

### *1. Enforcement authority*

Under present law, the President does not have the authority to enforce quantitative restrictions on the importation of steel products, except with regard to enforcement of the U.S.-E.C. Arrangement on Carbon Steel Products.

The conference agreement provides the President with authority to enforce the quantitative limitations, restrictions, and other terms agreed to between the United States and steel-exporting nations as contained in bilateral arrangements regarding steel products. Such enforcement authority is broad in scope, authorizing the President "to carry out such actions as may be necessary or appropriate," including, but not limited to, requiring presentation of valid export licenses or other documentation as a condition for entry into the United States.

The conference agreement further provides the Secretary of Commerce specifically with authority to enforce restrictions on exports to the United States of steel pipes and tubes from the European Communities, in accordance with the terms of the U.S.-E.C. Arrangement on Pipes and Tubes. The Secretary of the Treasury is required to take action at the request of the Secretary of Commerce, whenever the Secretary of Commerce determines that, (a) EC exports of pipes and tubes to the United States are exceeding the average of annual U.S. apparent consumption specified in the Arrangement, or (b) distortion is occurring in the pattern of U.S.-E.C. trade within the pipe and tube sector (taking into account the EC share within product categories developed by the Secretary of Commerce).

In taking action with respect to enforcement of the U.S.-E.C. Arrangement on Pipe and Tube, however, the Secretary of Commerce may authorize the importation of additional quantities of specific pipe and tube products in cases of short supply or emergency economic situations. Short supply or emergency economic situations shall not be considered to exist, however, solely because domestic producers are unwilling to supply products at prices below their costs of production (as determined by the Secretary of Commerce). This provision is designed to protect domestic purchasers of EC pipes and tubes from undue hardship due to an inability to obtain adequate supplies from domestic sources.

### *2. Bilateral arrangements subject to enforcement*

The conference agreement provides authority to enforce "bilateral arrangements" regarding steel products. The definition of "bilateral arrangements" is intentionally broad, and refers to any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement)

between the United States and any foreign country containing quantitative limitations, restrictions, or other terms relating to the importation into, or exportation to, the United States of steel products.

This definition is broad enough to include both formal agreements and informal understandings between the United States and foreign governments. The understanding need not be written to qualify as a "bilateral arrangement." It must, however, be based on some quantitative limitation, restriction, or other term regulating the foreign country's export of steel products to the United States.

*3. Duration of authority*

The conference agreement provides enforcement authority for a maximum of five years, subject to annual renewal within the five-year period. At the end of the first year of enforcement authority, the enforcement authority shall renew for an additional year only if the President, prior to the anniversary date, submits in writing an affirmative determination to the House Ways and Means and Senate Finance Committees, along with his reasons for such affirmative determination. If the President does not submit such determination, the enforcement authority terminates permanently. If the President does submit such determination, the enforcement authority renews for an additional year, at which time it would again be subject to the annual determination requirement. This annual renewal process would continue until the authority terminates, or until the authority has been in effect five years, whichever is sooner.

*4. Annual affirmative determination*

The conference agreement provides that an affirmative annual determination is a three-part determination by the President that: (1) the major steel companies, taken as a whole, have, during the relevant 12-month period, (a) committed substantially all of their net cash flow from steel operations for purposes of reinvestment and modernization, and (b) taken sufficient action to maintain their international competitiveness; (2) each of the major steel companies committed, during the relevant 12-month period, not less than 1 percent of net cash flow to the retraining of workers, unless the President waives this requirement with respect to a particular company due to unusual economic circumstances; and (3) the enforcement authority under this title remains necessary to maintain the effectiveness of bilateral arrangements undertaken to eliminate unfair trade practices in the steel sector. The conference agreement contains additional specific criteria to be considered in making the first part of the determination, regarding the industry's efforts to reinvest and modernize and to remain internationally competitive. The terms "major company" and "net cash flow" are specifically defined for purposes of this provision.

*5. Department of Labor worker assistance plan*

Under present law, dislocated workers may be eligible for benefits under the trade adjustment assistance program under the Trade Act of 1974, or under the dislocated worker provisions of the

Job Partnership and Training Act. These programs, however, are not limited to workers only in the steel industry.

The conference agreement requires the Secretary of Labor to prepare, in consultation with the Steel Advisory Committee, and to submit to Congress within six months a proposed plan of action for assisting workers in communities that are adversely affected by imports of steel products. Such assistance shall include retraining and relocation for former workers in the steel industry who are likely to be unable to return to employment in that industry. The plan shall be based on existing authorities for providing assistance, but shall include such recommendations for additional statutory authority as necessary to carry out the purposes of the plan.

***6. Sense of Congress regarding fair import market share***

The conference agreement provides the sense of Congress that the enforcement authority granted under this title should be used to ensure that the import market share for steel products in the United States is commensurate with a level which would obtain under conditions of fair, unsubsidized competition. It further provides the sense of Congress that when the national steel policy is fully implemented, it will result in an import market share in the range of 17.0–20.2 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require.

***7. Sense of Congress regarding antitrust enforcement***

The conference agreement provides the sense of Congress that the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws.

***8. Sense of Congress regarding future legislative action***

The conference agreement provides that, if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products.

***9. Effective Date***

The conference agreement provides that the provisions of this title on steel shall take effect on October 1, 1984.

## IX. PROVISIONS RELATING TO TRADE IN UNITED STATES WINE

Under the conference agreement, the U.S. Trade Representative is required to designate major wine trading countries which are potentially significant markets for U.S. wine and which maintain tariff and nontariff barriers to (or other distortions of) U.S. wine trade. The President must direct the USTR to consult with each country to seek the reduction or elimination of these barriers or distortions. The President also is required to submit a report on each country to the House Committee on Ways and Means and the Senate Committee on Finance within 13 months of the bill's enactment, containing: (1) a description of each trade barrier; (2) an assessment of whether each barrier is subject to an existing trade agreement; (3) action proposed or taken to reduce or eliminate the barriers, including action under the Trade Act of 1974; (4) reasons for not taking action; and (5) recommendations to Congress on any additional authority or action considered necessary and appropriate. If the President determines that action is appropriate to respond to any unfair tariff or nontariff barrier on U.S. wine, he must take all appropriate and feasible action under the Trade Act of 1974. The conference agreement also encourages the President to initiate a wine export promotion program in cooperation with winery representatives.

(The definition of "industry" for purposes of countervailing duty and antidumping cases also was amended to include grape growers. See item 14 under Title VI, Trade Law Reform.)



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